

TFW 1655

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<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)	Application Number	09/754,755
	Filing Date	January 4, 2001
	First Named Inventor	Wilhelm Elsner
	Art Unit	1655
	Examiner Name	Susan B. McCormick Ewoldt
Total Number of Pages in This Submission	Attorney Docket Number	2384-001896

**ENCLOSURES (Check all that apply)**

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input checked="" type="checkbox"/> Response <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Documents <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) <div>Remarks</div>	<input type="checkbox"/> After Allowance communication to Technology Center (TC) <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below) Response Under 37 C.F.R. §1.105; And Return Postcard
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**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Patricia A. Olosky
Signature	<i>Patricia A. Olosky</i>
Date	June 7, 2006

**CERTIFICATE OF TRANSMISSION/MAILING**

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: MAIL STOP AMENDMENT, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Judy Eberle		
Signature	<i>Judy Eberle</i>	Date	June 7, 2006

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Application No. 09/754,755  
Response Dated June 7, 2006  
Reply to USPTO Office Communication Dated April 7, 2006  
Attorney Docket No. 2384-001896

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

Application No. : 09/754,755  
Applicant : Wilhelm Elsner  
Filed : January 4, 2001  
Title: **GERANIUM PLANT NAMED 'TIKVIO'**  
Group Art Unit : 1655 Confirmation No. : 3769  
Examiner : S. B. M.Ewoldt Customer No. : 28289

MAIL STOP AMENDMENT  
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P. O. Box 1450  
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**RESPONSE UNDER 37 C.F.R. §1.105**

Madam:

In response to the Office Communication dated April 7, 2006, please enter into the file and consider the following:

**Response Under 37 C.F.R. §1.105** beginning on page 2 of this paper.

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Judy Eberle  
(Name of Person Mailing Papers)

*Judy Eberle* 6/7/06  
Signature Date

**RESPONSE UNDER 37 C.F.R. §1.105**

The undersigned has been advised that there was no advertising or offers for sale of 'Tikvio' to the American public more than one year before the January 4, 2001 filing date of the present application. Further, the undersigned has now been advised that commercial sales of the variety did not occur more than one year before the filing date of the present application. The earlier averment that commercial sales of 'Tikvio' took place in 1998 was made in error. Instead, those distributions were not public and were for testing and trialing purposes only.

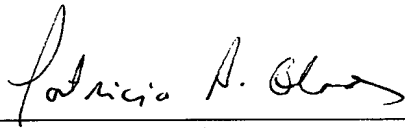
In view of the above, the scant information available in the publication of 'Tikvio' would not have enabled one of ordinary skill in the art to reproduce the claimed plant. Thus, the rejection under 35 U.S.C. §102(b) is wholly inappropriate in this instance.

**CONCLUSION**

In light of the foregoing, allowance of the claim is respectfully requested.

Respectfully submitted,

THE WEBB LAW FIRM

By 

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